

# MEMO

May 11, 2022

To: Neighbors of Krull Composting

Cc: Kasson Township Board & Planning Commission, Barry Krull & Krull Composting

From: Zoning Administrator Tim Cypher

Re: Krull Composting Complaints

All,

I was unable to attend last night's Township Board meeting where members of the public spoke again regarding the Krull Compost Operation (KCO). This was the second township board meeting in a row where neighbors have expressed their concerns. (See passages below of Board Minute excerpts) Members of the public brought bags filled with trash from the Krull operation, and were generally overall displeased with the Krull operation.

Additionally, I received a portion of the draft minutes from last night's meeting pertaining to the Krull Composting operation which stated that two Township Board members have found KCO bags blowing onto neighboring properties. Unfortunately, I was only aware of 1 bag being found. Also, I have received no phone calls or emails from neighboring property owners since April 24<sup>th</sup> informing me of this continuing issue even though I had encouraged the neighbors to contact me immediately when they feel a potential violation is taking place.

Further, I had spoken to Mr. Krull on April 13<sup>th</sup>, one day after the township board meeting and on April 24<sup>th</sup> that his neighbors have/had concerns and let him know that I will be completing an investigation of the operation and status of the complaints within hopefully the next month. The investigation is ongoing however, without timely and detailed input from all neighbors, including Township Board, & PC members, it is difficult to get a record put together to determine what type of violation exists. What I'm looking for is proof, evidence, direct knowledge, (not hearsay) photographs and timelines would be a good start. Obviously, I'm completing bi-weekly site visits but I can't be everywhere at all times. I completely realize that some neighbors have provided information but it has been quiet for almost three weeks. I also spoke to Mr. Krull today and Mike Wozwinak from MDARDf.

Therefore, and for the record, it is the ZA's job to accept complaints and follow the proper procedures in completing an investigation, and then providing notice to the Township Board. (See ZO Section 10.9 Enforcement, listed below)

As previously stated, if you have proof or evidence, please provide a timeline and photograph to support your claim. Again, I also apologize for not attending the meeting last night, but I again respectfully request you contact me so that I can have documents and photos to support your claims.

Finally, I should be able to finish my investigation by the end of this month however, it is a very busy time of year. Please be patient as this is a three-fold investigation. One, with conditions of the original approval granted to Krull Composting by the Township's Planning Commission and two, Michigan Department of Agricultural & Rural Development (MDARD) involvement with the potential Right to Farm Act GAAMP requirements and EGLE/DNR on the composting standards compliance.

Thanks in advance for your understanding and cooperation.  
Tim

#### **4/12/2022 Township Board meeting excerpt**

**PUBLIC COMMENT:** Fred Noonan stated that he and his neighbors are still having problems with Krull Composting. Noonan has been speaking with the state, and they have said will be making unannounced inspections this year. The neighbors have been having issues with birds, including buzzards on the fresh piles, which indicates fresh meat. Krull is also not in compliance with the 50' setbacks, there is trash blowing onto neighboring properties, and fresh trash being brought in is not being covered for 2-3 days, which is bringing in birds, flies and animals, as well as causing odors that will get worse when it gets warm. The Krull Composting business ruined the enjoyment of Noonan's property during the summer last year, and he hopes that the SUP can be revoked if necessary.

Eric Paluch – \_He is also a neighbor of Krull Composting and has been having issues with the property. The odors and flies are horrible during the summer, and the trash blows onto neighboring properties. There are hundreds of seagulls present during the summer.

Melinda Flees – \_She is also a neighbor of Krull Composting and is having the same issues. The smell and flies were horrendous during the summer last year, and they have picked up bags of trash blowing off the Krull property.

**Zoning Administrator (ZA)** – \_Cypher had previously submitted written reports to the board. The board briefly discussed. He is working to submit complaints regarding some buildings in bad condition to the County Code Office. The township does have a dangerous buildings ordinance, but the county is in a better place to enforce code violations. He will be working on the Krull issue, and continuing to follow up on the Lively matter.

### **5/10/2022 Township Board meeting excerpts.**

**PUBLIC COMMENT:** Melinda Flees – \_Flees brought bags of trash that she had picked up out of her yard that had blown from Krull Composting. She's picked up multiple bags of trash and a large tarp from the Krull property just this spring. She knows that things like liquor bottles and pop cans are just general road trash, but the majority of what she picks up is the biodegradable dishes and other trash that comes in to Krulls with the food waste, as well as Krull Composting bags.

Fred Noonan stated that he and his neighbors are still having problems with Krull Composting. He appreciates what the board does, but he and Mrs. Flees brought the trash today to demonstrate that this is a real problem. They acknowledge that Krull does have some people out picking up trash, and it is making a difference, but even with that, he picked up a quarter bag of trash with the high winds yesterday. There was a fire in the compost piles yesterday with two spot fires with the high winds, which was blowing directly towards his property, and that really scared him. The neighbors are having problems with this property daily. Cypher's work has helped, but this needs to be followed up on. The first 13 years that Krull was there, he just used hay and other farm products, not the large quantities of food and biodegradable trash that blows around and causes the odors and flies and other problems.

**Zoning Administrator (ZA)** – \_Cypher had previously submitted written reports to the board. The board briefly discussed. The board extensively discussed the Krull Composting operation. T. Carter and Julian have found Krull Composting bags blown onto neighboring properties. **Noonan moved to direct Tim Cypher to continue pursuing enforcement against Krull Composting, and support him in issuing a cease and desist if necessary. T. Carter seconded. All in favor, motion carried.**

### **Zoning Ordinance passage:**

#### **SECTION 10.9 ENFORCEMENT**

A. Any building or structure moved, erected, razed, converted, or used and any use of land or premises which is carried on in violation of this Ordinance is declared to be a nuisance per se. All buildings, structures, and land uses considered to be violations of this Ordinance shall be reported to the Zoning Administrator.

B. The Zoning Administrator shall inspect all alleged violations of this Ordinance. In the event that a violation is found, the Zoning Administrator shall issue within seven (7) days from the date of inspection, a written order to correct the violation and to otherwise comply with the provisions of this Ordinance.

C. After the order to correct has been issued, the violation shall be corrected within thirty (30) days. If the violation cannot be corrected within 30 days, an application to extend the correction period may be made to the Zoning Board of Appeals. Any violation not corrected shall be reported to the Township Board. The Township board may then initiate legal procedures against the violator.

D. Penalties: Any person, firm, association, corporation or other entity which shall violate any provision of this Ordinance or who fails to comply with any of the regulatory measures or conditions imposed by the Board of Appeals or the Planning Commission pursuant to this Ordinance or otherwise pursuant to Michigan law shall be deemed to be responsible for a municipal civil infraction as defined by Michigan statute which shall be punishable by a civil fine for each violation in accordance with the schedule set forth herein, along with costs which may include all expenses, direct and indirect, to which the township has been put in connection with the municipal infraction. Costs of not less than \$9.00 or more than \$500 shall be ordered. A violator of this Ordinance shall also be subject to such additional sanctions and judicial orders as are authorized under Michigan law. Each day that a violation continues to exist shall constitute a separate violation of this Ordinance. Provisions of this Ordinance may also be enforced by suit for injunctive relief.

#### Civil Fines for Municipal Infractions

Unless otherwise provided elsewhere within this Ordinance for specific violations, Civil Fines for municipal civil infractions shall be assessed in accordance with the following schedule:

##### Fine

1st Violation \$100.00 (Per Day)

2nd Violation - Within three (3) years of the first violation \$250.00 (Per Day)

3rd or subsequent Violations – Within three (3) years of the date of the first violation \$500.00 (Per Day)

The Leelanau County Sheriff's Department and the Township Zoning Administrator, are hereby authorized to investigate violations of this Ordinance, and to issue and serve appearance tickets and citations, including municipal civil infraction citations, pursuant to MCL 764.9c, MCL 600.8701 and MCL 600.8707, on all persons in violation of this zoning ordinance. Such appearance tickets and/or citations shall be issued and served in accordance with applicable Michigan law.

E. The Zoning Administrator, the Township Board, and the Zoning Board of Appeals, or any interested party may institute an injunction, mandamus, abatement or any other appropriate method to prevent, enjoin, abate, or remove any violation of this Ordinance. The rights and remedies provided herein are cumulative and in addition to all other remedies provided by law.